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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/582,871 08/09/00 DEBREGEAS

P 065691/0196

 EXAMINER

HM12/0502

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ART UNIT	PAPER NUMBER
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1615

DATE MAILED:

*6*

05/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trad marks**

<b>Office Action Summary</b>	Application No. <b>09/582,871</b>	Applicant(s) <b>Debregeas et al.</b>
	Examiner <b>Susan Tran</b>	Art Unit <b>1615</b>



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-18 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on Aug 9, 2000 is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15)  Notice of References Cited (PTO-892)
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5
- 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19)  Notice of Informal Patent Application (PTO-152)
- 20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

Receipt is acknowledged of applicant's Declaration filed 08/09/00, and Information Disclosure Statement filed 08/22/00.

### ***Specification***

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Rejections - 35 USC § 112***

2. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 15 and 18, the phrase "such as or such that" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fusejima et al. EP 648529A1.

Fusejima teaches a pharmaceutical granular material coating apparatus comprising rotary drum having cylindrical body portion (2) is formed by partition plates (52) and peripheral surfaces of the frame members (51a and 51b), and nozzle (22) for spraying coating (columns 6 and 12; Figs. 1-3). The coating apparatus further comprising a gas supply duct (31), (column 7, lines 8 through column 8, lines 30).

Though Fusejima is silent as to the teaching of the parallel sections (22) of the claimed invention, it is the position of the examiner that no criticality is seen in the use of the sections (22). The particular parallel section has not been shown to provide any unusual and/or unexpected results since Fusejima obtains the same results desired by applicants, i.e. a granular coating apparatus for tablets, granules and the like useful for pharmaceuticals and food products.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fusejima et al. EP 648529A1.

Fusejima is relied upon for the reason stated above. Fusejima is silent as to the teaching of the parallel sections (22) of the claimed invention. However, Fusejima does teach and suggest the use of partition plates (52) having peripheral surfaces of the frame members (51a and 51b). Thus, it would have been *prima facie* obvious for one of the ordinary skill in this art to, by routine experimentation modifying Fusejima's peripheral surfaces of the frame members (51a and 51b) to obtain the claimed invention, because the reference teaches the advantageous results of gas supply passes through the inner and outer peripheral surfaces to improve the accumulation of coating material onto the granules.

*Art of Interest*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamada et al. and Long, Jr. et al. are cited as being of interest for teaching the coating apparatus.

*Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Tran whose telephone number is (703) 306-5816. The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600